THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

DATED:08--08--2005

WRIT PETITION NO : 1493 of 2004

Between:

A.Krishna Kiran, S/o.Satyanarayana Murthy,
Dwarakanagar, Visakhapatnam.

..... PETITIONER

AND

Asst.Secretary, Regional Transport Authority, Krishna Dist,Vijayawada

and another

.....RESPONDENTS

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 1493 of 2004

ORDER: (per BRSR, J)

Heard the learned counsel for the petitioner and the learned Government Pleader for Transport and at their request, the matter is taken up for disposal at the admission stage. Rule nisi.

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of mandamus declaring the action of the first respondent in collecting tax as well as penalty amounting to Rs.14,330/- for the quarter ending with 31-12-2003 in respect of the petitioner's

Crane bearing Registration No.MH.06/T.9735 in order to release the said Crane, which was seized on 14-11-2003, as arbitrary and illegal.

Learned counsel for the petitioner invited our attention to the proceedings dated 15-11-2003 which disclose that the petitioner paid an amount of Rs.14,330/- vide Demand Draft dated 15-11-2003 towards quarterly tax and a further sum of Rs.125/- as is required and accordingly got release of the vehicle in question.

The contention of the petitioner is that as per the notification issued by the Central Government in S.O.No.451 (E), dated
19-06-1992, Crane mounted vehicle is categorized as non-transport vehicle. The Government of Andhra Pradesh issued order in G.O.Ms.No.601, Home (Tr-II), dated 27-03-1963 to the effect that non-transport vehicles registered and normally kept in any other States are exempted from payment of tax for a quarter (half year or year) in the State of Andhra Pradesh. This Government Order obviously is in operation as is evident from the letter, dated 02-08-2005, issued by the Transport Commissioner, Andhra Pradesh, Hyderabad, a copy of which is made available for our perusal by the learned Government Pleader for Transport. The said letter *inter-alia* reiterates the position that in terms of the Government Order referred to hereinabove, non-transport vehicles registered and normally kept in any other States are exempted from payment of tax in this State and thus, the petitioner is entitled to the benefit under the said Government Order.

The petitioner obviously paid the amounts on 15-11-2003 as is evident from the proceedings dated 15-11-2003 referred to hereinabove to get the vehicle released. The amounts ought not to have been collected by the first respondent herein in view of G.O.Ms.No.601, dated 27-03-1963. Thus, the petitioner is entitled to the return of the amount paid by him.

In such view of the matter, this writ petition is disposed of directing the first respondent to return the amounts collected from the petitioner, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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(B.SUDERSHAN REDDY, J)

(RAMESH RANGANATHAN, J)

8th AUGUST, 2005.

Note: furnish copy of the order within one week.

B/o

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